

defendant *Winchester* was the president of the company; that the defendant *McNeill* was their principal engineer; and that the other defendants were their agents; that the company had, under authority of the act of 1827, ch. 72, by which they were incorporated, located their rail road over the land of the plaintiff; and were proceeding to construct it as alleged; that in repeated conversations with the plaintiff, he was assured that he should have a jury convened to assess the damages done to his land, whenever he thought proper; but his demands were so extravagant, that the company could come to no agreement with him, in consequence of which a jury was summoned and an inquisition taken in the manner prescribed by the act of incorporation; upon which the jury determined that the plaintiff would sustain no damage whatever by the rail road passing over his land; that at the place where the plaintiff's way, spoken of in his bill, passed over the route of the rail road, it became necessary to make a perpendicular cut of many feet, and the greater part through solid rock; and consequently, his right of way was turned in another direction, equally convenient, over the route of the rail road; that the inquisition was not withheld at the instance of these defendants; but was, in fact, returned within a very short time after it was taken, and to the then next session of the County Court; and the hearing of the plaintiff's exceptions to it was necessarily, and only postponed to the next term, because he refused to consent to the fixing of a day in that term for the hearing; that there had been no procrastination at the instance of the company in the taking or returning of the inquisition, or of the hearing of the exceptions to it; that the warrant for the taking of it had been issued by a justice of the peace; and it had been, in all respects, regularly and legally executed, with full notice, and in the presence of the plaintiff and his solicitor, who was fully heard by the jury.

The defendants after filing their answer gave notice of a motion to dissolve the injunction as allowed by the order of the 17th of May.

4th June, 1831.—BLAND, *Chancellor*.—This case standing ready for hearing on the motion to dissolve the injunction, and the solicitors of the parties having been fully heard, the proceedings were read and considered.

The act of Assembly by which this company have been incorporated, authorized them to construct a rail road from the city of Baltimore to the river Susquehanna; and, for the purpose of exe-